IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.746 OF 2006

IN

SUIT NO.1312 OF 2005

Ms.M.S.Shetty and another. ...Plaintiffs.

Vs.

Mr.Anoop Vyas and others. ...Defendants

Ms.Neha Bhide i/b. M/s.Khaitan & Jayakar, for Plaintiffs.

Mr.K.A.Sampat, for Defendant nos.1 to 4 & 6.

CORAM: D.K.DESHMUKH, J.

DATED: 26th April,2006

P.C.:-

1. This is a notice of motion taken out by the plaintiffs. The learned Counsel appearing for plaintiff states that the defendant no.5 has been served. She undertakes to file affidavit of service

within a period of one week from today. The defendant nos.1,2,3,4 and 6 are appearing. The learned counsel appearing for defendant nos. 1,2,3,4, and 6 has no objection to the grant of notice of motion in terms of prayer clause (a). By consent of plaintiffs and defendant nos.1,2,3,4, and 6, and in the absence of affidavit in reply filed by defendant no.5, accepting the averments in the affidavit filed in support of the notice of motion at face value as against defendant no.5, the notice of motion is granted in terms of prayer clause (a).

2. So far as relief in terms of prayer clause (b) is concerned, the learned Counsel appearing for defendant nos.1,2,3,4 and 6 states that he has no objection to the grant of this notice of motion in terms of prayer clause (b) also but according to him, the present position is as explained in paragraph 10 of the affidavit in reply dated 23.3.2006 filed by Mr.Tushar Desai - defendant no.2. In view of this statement, the notice of motion is also granted in terms of prayer clause (b). The statement made by the learned Counsel appearing for respondent nos.

1,2,3,4 & 6 is noted.